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7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 APPROXIMATELY \$1,200,000.00 IN  
14 U.S. CURRENCY SEIZED FROM FIRST  
15 CALIFORNIA BANK ACCT. NO.  
2005638, ETC.,

16 Defendants.  
17

2:05-CV-0149 DFL KJM

EX PARTE REQUEST TO SET A  
STATUS (PRETRIAL SCHEDULING)  
CONFERENCE HEARING

18  
19 EX PARTE APPLICATION

20 By Stipulation and Order filed May 10, 2005, the Court directed  
21 counsel for the United States to cause this matter to be placed on the  
22 Court's calendar for a Status Conference within thirty days from the  
23 conclusion of the federal criminal action presently pending against  
24 potential claimant Schachter in the Eastern District of California,  
25 or upon the expiration of seven months from the date of this order.  
26 On November 21, 2005, the government notified the Court that the  
27 criminal case against Schachter had terminated. Subsequently, the  
28

1 Court (Shubb, J.) set the matter for a Status (pretrial scheduling)  
2 Conference. Before that conference could be conducted, however, the  
3 Court issued a related case order, reassigning this case. See Related  
4 Case Order filed December 8, 2005.

5 Accordingly, the United States applies *ex parte* for an order  
6 setting this matter for a Status (pretrial scheduling) Conference on  
7 a date in late January or early February that may be convenient for  
8 the Court.<sup>1</sup> While the government recognizes that the Court is often  
9 able to issue Scheduling Orders based on the written submissions of  
10 the parties, the government requests that the Court set this matter  
11 for a hearing. In light of *United States v. \$4,224,958.57*, 392 F.3d  
12 1002 (9th Cir. 2004) ("*Boylan*"), the government believes that this  
13 case may raise extraordinary case management and scheduling  
14 complexities, and thus it would be beneficial for the Court to conduct  
15 a Status (pretrial scheduling) Conference. For example, if *Boylan*  
16 applied to this action it conceivably requires this Court to give  
17 notice to hundreds, if not thousands, of potential claimants, and  
18 convert this forfeiture action into some sort of trust administration  
19 proceeding. Id. at 1005.<sup>2</sup>

20 Dated: 12/22/05

McGREGOR W. SCOTT  
United States Attorney

21  
22 /s/ Courtney J. Linn  
COURTNEY J. LINN  
Assistant U.S. Attorney  
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24 <sup>1</sup> The United States is advised that claimant John W. Hollis  
25 intends in the near future to notice a motion for hearing on either  
26 February 1, 2006, or February 15, 2006. The Court may wish to set  
this matter for a Status Conference on the same date and time as  
Hollis' anticipated motion.

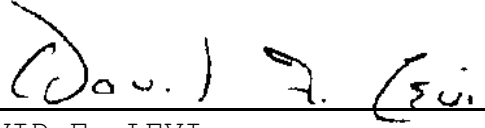
27 <sup>2</sup> The government does not concede that *Boylan* applies.  
28

ORDER

The government's *ex parte* application is granted. This matter is set for a Status (pretrial scheduling) Conference on February 15, 2006, at 1:30 P.M. in Courtroom No. 7. The parties shall submit separate status reports of no more than 10 pages not less than five court days prior to that date.

IT IS SO ORDERED.

Dated: 1/4/2006

  
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DAVID F. LEVI  
United States District Judge